

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ANDRE ROSADO,)	
)	
Petitioner,)	
)	
v.)	Criminal Action No.
)	05-40011-FDS
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

ORDER ON CERTIFICATE OF APPEALABILITY

SAYLOR, J.

On November 20, 2012, this Court issued an order dismissing the petition for a writ of habeas corpus. The basis for the Court’s ruling is provided in its Memorandum and Order dismissing the petition.

To appeal the final order in a proceeding instituted under 28 U.S.C. § 2255, the petitioner must first obtain a Certificate of Appealability (“COA”) from a circuit justice or a district court. *See* 28 U.S.C. § 2253(c). A COA will issue only if the petitioner “has made a substantial showing of the denial of a constitutional right.” § 2253(c)(2). This standard is satisfied by “demonstrating that jurists of reason could disagree with the district court’s resolution of [petitioner’s] constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

Petitioner presented five claims in his petition, contending that: (1) that agents illegally

searched his vehicle and seized evidence without probable cause, violating his Fourth Amendment rights; (2) that prosecutors intentionally used fraudulent documents in submissions to the Court, depriving him of his Fourteenth Amendment rights; (3) that there is insufficient evidence to prove Count One of the indictment, charging distribution of cocaine base; (4) that his trial counsel was ineffective in failing to object to Fourth Amendment violations, prosecutorial misconduct, and sufficiency-of-the-evidence issues; and (5) that his sentence was improperly calculated under 18 U.S.C. § 924(c)(1)(A). Petitioner's contentions do not present a colorable claim as to which a reasonable jurist could disagree with the Court's conclusions, at least sufficiently so to satisfy the standard, and therefore do not merit the issuance of a COA.

Accordingly, a certificate of appealability is DENIED.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge

Dated: November 20, 2012